

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

AUGUST SESSION, 1998

FILED
September 25, 1998
Cecil Crowson, Jr.
Appellate Court Clerk

SEAN PATRICK GOBLE,

Appellant,

V.

STATE OF TENNESSEE,

Appellee.

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C.C.A. NO. 03C01-9711-CR-00503

GREENE COUNTY

HON. JAMES E. BECKNER, JUDGE

(POST-CONVICTION)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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OPINION FILED _____

AFFIRMED

THOMAS T. WOODALL, JUDGE

OPINION

The Petitioner/Appellant, Sean Patrick Goble, appeals as of right from the trial court's order dismissing his petition for post-conviction relief. The petition was dismissed without an evidentiary hearing.

The record in this case reveals that Petitioner pled guilty to first degree murder on December 15, 1995 and received a sentence of life imprisonment. There was no direct appeal from this conviction. The petition was filed September 5, 1997. In his petition, the Appellant alleges that he filed a petition for post-conviction relief on September 10, 1996, but was "taken to court somewhere else and didn't know the court never received it." The record reflects that he was transferred to another state to answer to criminal charges on or about September 24, 1996 and did not realize that the trial court had never received the purported September 10, 1996 petition until he returned to the custody of the Department of Correction sometime in 1997. However, there is nothing in the record to corroborate the allegation in the petition that a prior, timely petition for post-conviction relief was filed.

Tennessee Code Annotated section 40-30-202 provides in part that when an appeal is not made from a conviction, a petition for post-conviction relief must be filed "within one (1) year of the date on which the judgment became final, or consideration of such petition shall be barred." Certain narrow exceptions to the one (1) year limitation period are set forth in Tennessee Code Annotated section 40-30-202(b). The petition fails to allege facts which would form the basis for application of one of the statutory exceptions to the one (1) year limitation period. Therefore, on its face, the petition was filed outside the one (1) year statute of

limitations. Accordingly, the trial court properly dismissed the petition without an evidentiary hearing. The judgment of the trial court is affirmed.

THOMAS T. WOODALL, Judge

CONCUR:

JOSEPH M. TIPTON, Judge

JOE G. RILEY, Judge